

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DOROTHY WHITAKER,

Plaintiff,

vs.

Civ. No. 18-1046 KG/JFR

ALEX M. AZAR II, SECRETARY,
U.S. Department of Health and Human Services,

Defendant.

ORDER

This matter comes before the Court *sua sponte*. On May 4, 2020, Plaintiff filed a 30-page Response to Defense Motion for Summary Judgment (Response). (Doc. 40). Plaintiff supports her Response with 106 pages of exhibits. (Docs. 39 and 40-1). The Court finds that the Response and accompanying exhibits violate several Local Rules.

First, the 30-page Response violates Local Rule 7.5, which requires that a response not exceed 24 pages. The Court notes that the docket sheet does not indicate that Plaintiff requested permission from the Court to exceed the 24-page limit for her Response.

Second, the 106 pages of exhibits violate Local Rule 10.5. Local Rule 10.5 requires that exhibits not exceed 50 pages unless the “parties agree otherwise” or the party seeking to exceed the 50-page limit files a motion to do so. The Court further notes that neither the docket sheet nor Defendant’s Reply to His Motion for Summary Judgment (Doc. 42) indicate that Defendant agreed to Plaintiff exceeding the 50-page limit for exhibits. Moreover, Plaintiff did not seek permission from the Court to exceed the 50-page limit for exhibits.

Finally, the Response does not comply with Local Rule 56.1(b). Local Rule 56.1(b) requires that in responding to a motion for summary judgment “[e]ach fact in dispute must be

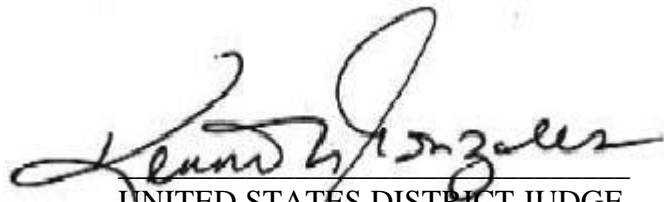
numbered, must refer with particularity to those portions of the record upon which the non-movant relies, and must state the number of the movant's fact that is disputed." Furthermore, "additional facts other than those which respond to the Memorandum which the non-movant contends are material to the resolution of the motion ... must be lettered and must refer with particularity to those portions of the record upon which the non-movant relies."

Given these violations of Local Rules 7.5, 10.5, and 56.1(b), the Court ORDERS that:

1. no later than October 5, 2020, Plaintiff may file and serve an amended response with supporting exhibits that complies with the Local Rules;

2. failure to file and serve an amended response with supporting exhibits will result in the Court considering only the first 24 pages of the Response and the first 50 pages of (Doc. 39);
and

3. if Plaintiff files and serves an amended response with supporting exhibits, Defendant may file an amended reply, and if it does so, the amended reply shall be filed and served no later than October 20, 2020.



UNITED STATES DISTRICT JUDGE